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19NW-CV00032 - TERRY NIXON V KINGDOM CARGO, LLC ET AL (E-CASE)

Case Header	Parties & Attorneys	Docket Entries	Charges, Judgments & Sentences	Service Information	Filings Due	Scheduled Hearings & Trials	Civil Judgments	Garnishments/ Execution
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Document ID: 19-SMOS-2, for DIAZ, JUAN MANUEL.

 [Summ Issd- Circ Pers Serv O/S](#)

Document ID: 19-SMOS-1, for KINGDOM CARGO LLC.

12/31/2018 [Filing Info Sheet eFiling](#)

Filed By: BRIAN DOUGLAS JOHNSTON

 [Certificate of Service](#)

Certificate of Service.

Filed By: BRIAN DOUGLAS JOHNSTON

On Behalf Of: TERRY NIXON

 [Summ Req-Circ Pers Serv O/S](#)

Clerk Instruction Sheet.

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Petition in Damages.

 [Judge Assigned](#)

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[Return to Top of Page](#)

Released 12/31/2018

EXHIBIT
tabbed
A



IN THE 40TH JUDICIAL CIRCUIT, NEWTON COUNTY, MISSOURI

Judge or Division: GREGORY STREMEL	Case Number: 19NW-CV00032
Plaintiff/Petitioner: TERRY NIXON	Plaintiff's/Petitioner's Attorney/Address: BRIAN DOUGLAS JOHNSTON 811 N Boonville Ave, Springfield, MO 65802
vs.	Court Address: 123 E. MAIN PO BOX 170 NEOSHO, MO 64850
Defendant/Respondent: KINGDOM CARGO LLC and JUAN MANUEAL DIAZ	
Nature of Suit: CC Pers Injury-Other	
(Date File Stamp)	

**FILED
1/3/2019
PATTY A. KRUEGER
CLERK OF THE CIRCUIT COURT
NEWTON COUNTY, MISSOURI**

**Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)**

The State of Missouri to: **JUAN MANUEL DIAZ**
Alias:

**2924 CONCORD STREET
LAREDO, TX 78043**



You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

1/3/2019

Date

Clerk

Further Information:

Officer's or Server's Affidavit of Service

I certify that:

1. I am authorized to serve process in civil actions within the state or territory where the above summons was served.
2. My official title is _____ of _____ County, _____ (state).
3. I have served the above summons by: (check one)
 - delivering a copy of the summons and a copy of the petition to the defendant/respondent.
 - leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
 - (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
 - other: _____.

Served at _____ (address)

in _____ County, _____ (state), on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and sworn to before me this _____ (day) _____ (month) _____ (year).

I am: (check one) the clerk of the court of which affiant is an officer.

the judge of the court of which affiant is an officer.

authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)

authorized to administer oaths. (use for court-appointed server)

Signature and Title

Service Fees

Summons \$_____

Non Est \$_____

Mileage \$_____ (_____ miles @ \$ _____ per mile)

Total \$_____

See the following page for directions to officer making return on service of summons.

Directions to Officer Making Return on Service of Summons

A copy of the summons and a copy of the motion must be served on each defendant/respondent. If any defendant/respondent refuses to receive the copy of the summons and motion when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and motion and the defendant's/respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age who permanently resides with the defendant/respondent, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.



IN THE 40TH JUDICIAL CIRCUIT, NEWTON COUNTY, MISSOURI

Judge or Division: GREGORY STREMEL	Case Number: 19NW-CV00032
Plaintiff/Petitioner: TERRY NIXON	Plaintiff's/Petitioner's Attorney/Address: BRIAN DOUGLAS JOHNSTON 811 N Boonville Ave, Springfield, MO 65802
Defendant/Respondent: KINGDOM CARGO LLC and JUAN MANUEAL DIAZ	Court Address: 123 E. MAIN PO BOX 170 NEOSHO, MO 64850
Nature of Suit: CC Pers Injury-Other	FILED 1/3/2019 PATTY A. KRUEGER CLERK OF THE CIRCUIT COURT NEWTON COUNTY, MISSOURI <small>(Date File Stamp)</small>

**Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)**

The State of Missouri to: **KINGDOM CARGO LLC** SERVE: **JUAN DIAZ, REGISTERED AGENT**
5903 RIVERSIDE
LAREDO, TX 78041



You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

1/3/2019

Date

Clerk

Further Information:

Officer's or Server's Affidavit of Service

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is _____ of _____ County, _____ (state).
- I have served the above summons by: (check one)
 - delivering a copy of the summons and a copy of the petition to the defendant/respondent.
 - leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
 - (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
 - other: _____.

Served at _____ (address)

in _____ County, _____ (state), on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and sworn to before me this _____ (day) _____ (month) _____ (year).

I am: (check one) the clerk of the court of which affiant is an officer.

the judge of the court of which affiant is an officer.

authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)

authorized to administer oaths. (use for court-appointed server)

Signature and Title

Service Fees

Summons \$ _____

Non Est \$ _____

Mileage \$ _____

Total \$ _____

(_____ miles @ \$ _____ per mile)

See the following page for directions to officer making return on service of summons.

Directions to Officer Making Return on Service of Summons

A copy of the summons and a copy of the motion must be served on each defendant/respondent. If any defendant/respondent refuses to receive the copy of the summons and motion when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and motion and the defendant's/respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age who permanently resides with the defendant/respondent, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The office making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.

IN THE CIRCUIT COURT OF NEWTON COUNTY, MISSOURI

TERRY NIXON,)
Plaintiff,)
v)
KINGDOM CARGO, LLC and JUAN)
MANUEAL DIAZ,)
Defendants.) CASE NO.: _____

Please find the enclosed documents for filing in the above referenced case:

- Certificate of Service
- Plaintiffs' Petition for Damages

Respectfully Submitted,

JOHNSON, VORHEES & MARTUCCI

By: /s/ Brian Johnston
Brian Johnston
Bar No. 45974
811 N. Boonville Ave.
Springfield, Missouri 65802
(417) 720-1366
(417) 720-4745 (fax)
brian@4stateslaw.com
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 31st day of December, 2018 this Certificate of Service was filed electronically using the Court's e-Filing system, and the above-referenced documents will be issued to area sheriff's department for service upon defendant upon receipt of the Summons from the Court.

/s/ Brian Johnston
BRIAN JOHNSTON

IN THE CIRCUIT COURT OF NEWTON COUNTY, MISSOURI

TERRY NIXON,)
)
Plaintiff,)
v.)
KINGDOM CARGO, LLC and JUAN)
MANUEAL DIAZ,)
)
Defendants.)

CASE NO.: _____

Clerk Instruction Sheet

Please prepare an out of state summons for each of the following:

Defendant Juan Manuel Diaz can be personally served through the Webb County Sheriff's Department by serving him at his residence located at 2924 Concord Street, Laredo, Texas 78043.

Defendant Kingdom Cargo, LLC can be served through the Webb County Sheriff's Department by serving its resident agent, Juan Diaz at 5903 Riverside, Laredo, TX 78041.

The two copies of the following documents will be served upon the Defendant along with its Summons:

- Certificate of Service
- Petition for Damages

Respectfully Submitted,

JOHNSON, VORHEES & MARTUCCI

By: /s/ Brian Johnston

Brian Johnston
Bar No. 45974
811 N. Boonville Ave.
Springfield, Missouri 65802
(417) 720-1366
(417) 720-4745 (fax)
brian@4stateslaw.com
Attorneys for Plaintiff

IN THE CIRCUIT COURT OF NEWTON COUNTY, MISSOURI

TERRY NIXON,)
)
Plaintiff,)
v.)
KINGDOM CARGO, LLC and JUAN)
MANUEAL DIAZ,)
)
Defendants.)

CASE NO.: _____

PETITION FOR DAMAGES

COMES NOW Plaintiff, by and through his attorneys of record, Brian Johnston and Joshua Decker of the law firm of Johnson, Vorhees, & Martucci and states and avers as follows:

General Allegations:

1. Plaintiff Terry Nixon is a resident of Missouri.
2. At all relevant times herein, Defendant Juan Manuel Diaz, (hereinafter "Diaz") was a resident of Laredo, Webb County, Texas. Service may be obtained on Defendant Diaz through the Webb County Sheriff's Department by serving him at his residence located at 2924 Concord Street, Laredo, Texas 78043.
3. At all times relevant herein, Defendant Kingdom Cargo, LLC (hereinafter "Kingdom Cargo") was a Texas corporation doing business in Missouri. Service may be obtained by serving its resident agent, Juan Diaz at 5903 Riverside, Laredo, TX 78041.
4. Plaintiff was first injured in Jasper County, Missouri, providing this Court with jurisdiction and venue over these claims.

5. On January 18, 2018, Plaintiff Terry Nixon was injured when a Peterbilt Tractor trailer driven by Defendant Diaz struck plaintiff's trailer causing the trailer to strike plaintiff as plaintiff was walking on the premises of Love's Travel Stop located at 4013 South 43 Highway, Joplin, Missouri 64804.

6. At the time of the collision plaintiff's vehicle and trailer were stopped.

7. Defendant Diaz was operating his vehicle in an unsafe manner when he suddenly drove his vehicle directly into Plaintiff's trailer causing the trailer to violently collide with Plaintiff causing serious injuries to Plaintiff.

8. Defendant Diaz, at the time of the collision, was employed by Defendant Kingdom Cargo and was in the course and scope of his employment, therefore, Defendant Kingdom Cargo is vicariously liable for the actions and/or inactions of Defendant Diaz.

COUNT I: GENERAL NEGLIGENCE

9. Plaintiff adopts by reference paragraphs 1-8 as if set forth wholly herein.

10. Defendant Diaz was being inattentive while driving his tractor trailer causing him to collide another vehicle resulting in injury to plaintiff.

11. Defendant Diaz negligently caused, permitted and allowed the vehicle which he was operating to collide with the stopped trailer being transported by plaintiff.

12. That the collision aforesaid and the injuries and damages of Plaintiff Terry Nixon described below are the direct and proximate result of the negligence, carelessness, faults, and omissions of Diaz and Kingdom Cargo in one, more, or all of the following particulars, to wit:

(a) Defendant Diaz did not yield the right of way;

- (b) Defendant Diaz was not attentive to the roadway;
- (c) Defendant Diaz did not keep a careful lookout;
- (d) Defendant Diaz drove his vehicle at an excessive speed under the circumstances;
- (f) Defendant Diaz did not keep the motor vehicle he was operating under proper control; and,
- (g) Defendant Diaz knew or should have known that there was a reasonable likelihood of collision in time thereafter to have stopped, swerved, slackened speed, and/or sounded a warning, but Defendant failed to do so.

13. Defendant Diaz's and Kingdom Cargo's negligence, carelessness, faults and omissions directly and proximately caused or contributed to cause Plaintiff Terry Nixon to sustain bodily injury and pain and suffering to his brain, head and face.

14. Defendants Diaz's and Kingdom Cargo's negligence carelessness faults and omissions directly and proximately caused or contributed to cause Plaintiff Terry Nixon to incur past and will incur in the future a substantial sum for medical and health care and treatment.

15. As a direct result of the negligence of defendants Diaz and Kingdom Cargo Plaintiff Terry Nixon was caused and continues to have pain, suffering, loss of enjoyment and quality of life, and inconvenience.

16. As a direct result of the negligence of defendants Diaz and Kingdom Cargo plaintiff sustained property damage to his trailer.

WHEREFORE, Plaintiff Terry Nixon prays for judgment against Defendants Diaz and Kingdom Cargo for a sum that is fair and reasonable, for his costs incurred herein, and for any such other relief as the Court deems appropriate.

Respectfully Submitted,

JOHNSON, VORHEES & MARTUCCI

By: /s/ Brian Johnston
Brian Johnston, MO Bar # 45974
Joshua Decker, MO Bar # 61817
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